



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

VALLEY REGIONAL OFFICE

Molly Joseph Ward
Secretary of Natural Resources

P.O. Box 3000, Harrisonburg, Virginia 22801
(540) 574-7800 Fax (540) 574-7878
located at 4411 Early Road, Harrisonburg, VA
www.deq.virginia.gov

David K. Paylor
Director

Amy Thatcher Owens
Regional Director

VIRGINIA WASTE MANAGEMENT BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO DYNAMIC AVIATION GROUP, INC. EPA ID No. VA0000980524

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1455, between the Virginia Waste Management Board, and Dynamic Aviation Group, Inc., regarding the Dynamic Aviation Group, Inc. facility for the purpose of resolving certain violations of the Virginia Waste Management Act and the applicable regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the Virginia Waste Management Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1401.
2. "CESQG" means a conditionally exempt small quantity generator of hazardous waste, a generator of less than 100 kilograms of hazardous waste in a month and meeting the other restrictions of 40 CFR § 261.5 and 9 VAC 20-81-10.
3. "CFR" means the Code of Federal Regulations, as incorporated into the Regulations.
4. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.

5. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
6. "Dynamic" means Dynamic Aviation Group, Inc., a corporation authorized to do business in Virginia, and its affiliates, partners, and subsidiaries. Dynamic is a "person" within the meaning of Va. Code § 10.1-1400.
7. "Facility" or "Site" means the Dynamic facility located at 1402 Airport Road in Bridgewater, Virginia.
8. "Generator" means person who is a hazardous waste generator, as defined by 40 CFR § 260.10.
9. "Hazardous Waste" means any solid waste meeting the definition and criteria provided in 40 CFR § 261.3.
10. "LQG" means large quantity generator, a hazardous waste generator that generates 1000 kilograms (2200 pounds) or greater of hazardous waste in a calendar month and meets other restrictions. *See* 40 CFR § 262.34(a)-(b) and (g)-(l).
11. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1455.
12. "Order" means this document, also known as a "Consent Order" or "Order by Consent."
13. "RCRA" means the Resource Conservation and Recovery Act, enacted in 1976.
14. "Regulations" or "VHWMR" means the Virginia Hazardous Waste Management Regulations, 9 VAC 20-60-12 *et seq.* Sections 20-60-14, -124, -260 through -266, -268, -270, -273, and -279 of the VHWMR incorporate by reference corresponding parts and sections of the federal Code of Federal Regulations (CFR), with the effective date as stated in 9 VAC 20-60-18, and with independent requirements, changes, and exceptions as noted. In this Order, when reference is made to a part or section of the CFR, unless otherwise specified, it means that part or section of the CFR as incorporated by the corresponding section of the VHWMR. Citations to independent Virginia requirements are made directly to the VHWMR.
15. "SQG" means a small quantity generator, a hazardous waste generator that generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month and meets other restrictions. *See* 40 CFR § 262.34(d)-(f).
16. "Solid Waste" means any discarded material meeting the definition provided in 40 CFR § 261.2.
17. Universal Waste means any of the following hazardous wastes that are subject to the universal waste requirements of 40 CFR § 273: Batteries as described in §273.2;

Pesticides as described in §273.3; Mercury-containing equipment as described in §273.4 and Lamps as described in §273.5.

18. "Va. Code" means the Code of Virginia (1950), as amended.
19. "VAC" means the Virginia Administrative Code.
20. "Virginia Waste Management Act" means Chapter 14 (§ 10.1-1400 *et seq.*) of Title 10.1 of the Va. Code. Article 4 (Va. Code §§ 10.1-1426 through 10.1-1429) of the Virginia Waste Management Act addresses Hazardous Waste Management.
21. "VRO" means the Valley Regional Office of DEQ, located in Harrisonburg, Virginia.

SECTION C: Findings of Fact and Conclusions of Law

1. Dynamic Aviation Group, Inc. (Dynamic) owns and operates an aircraft maintenance and refurbishing plant (Facility) located in Bridgewater, Virginia. Operations at the Facility are subject to the Virginia Waste Management Act and the Regulations.
2. Dynamic submitted a RCRA Subtitle C Site Identification Form, received December 13, 1994, that gave notice of regulated waste activity at the Facility as a CESQG of hazardous waste. In a subsequent form dated May 23, 2002, Dynamic gave notice of regulated waste activity at the Facility as an SQG of hazardous waste. Dynamic was issued EPA ID No. VA0000980524 for the Facility. Dynamic is a small quantity handler of Universal Waste.
3. At the Facility, Dynamic generates the following solid wastes which are also hazardous wastes. Each waste is listed with associated waste codes as described in 40 CFR § 261.24 and 261.31. Hazardous wastes, including those listed below, are accumulated in containers at the Facility after generation.

Ignitable Waste: D001

Corrosive Waste: D008

Tetrachloroethylene: D039

Trichloroethylene: D040

Spent Halogenated Solvents: F001, F002

Spent non-halogenated solvents: F003, F005

4. On October 1, 2015, DEQ staff inspected the Facility for compliance with the requirements of the Virginia Waste Management Act and the regulations. Based on the inspection and follow-up information, Department staff made the following observations:
 - a. Containers in the paint booth satellite accumulation area were not properly marked with the words "Hazardous Waste" and/or were not identified with the date accumulation had begun. Containers in the 180-day accumulation area were not marked with the date that accumulation began.

40 CFR 262.34(c) (1)(ii) as referenced in 9 VAC 20-60-262 of the VHWMR requires that generators label each container with the words "Hazardous Waste."

40 CFR 262.34(d)(4) as referenced in 9 VAC 20-60-262 of the VHWMR requires that generators comply with 40 CFR 262.34(A)(3), which requires that generators label each container with the words "Hazardous Waste" while being accumulated on-site.

- b. No records were available to indicate that weekly inspections were being performed.

40 CFR 265.174 as required by 40 CFR 262.34(d)(2) and as referenced in 9 VAC 20-60-262 and 265 of the VHWMR requires that at least weekly, the owner or operator must inspect areas where containers are stored.

- c. DEQ had not been notified of the exact location of accumulation areas.

9 VAC 20-60-262(B)(4) of the VHWMR requires that a generator notify DEQ of each location where hazardous waste is accumulated.

- d. A waste paint container in the Building 3 paint booth area was not kept closed while it was not in use.

40 CFR 265.173(a) as required by 40 CFR 262.34(d)(2) and as referenced in 9 VAC 20-60-262 and 265 of the VHWMR requires that a container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.

- e. Universal Waste (lamps) located in the supply room were not stored in a closed container.

40 CFR 273.13(d)(1) as referenced in 9 VAC 20-60-273 of the VHWMR requires that containers and packages that contain Universal Waste lamps must remain closed and must lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions.

- f. Universal Waste lamps were not labeled with the words "Universal Waste."

40 CFR 273.14(e) as referenced in 9 VAC 20-60-273 of the VHWMR requires that the containers be labeled with the words "Universal Waste Lamps" or "Waste Lamps."

- g. Universal Waste lamps were not marked with the date when they became a waste.

40 CFR 273.15(c) as referenced in 9 VAC 20-60-273 of the VHWMR requires

that a small quantity handler of universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.

- h. On June 25, 2012, Dynamic manifested 880 gallons of hazardous waste. On April 12, 2013, Dynamic manifested 720 gallons of hazardous waste. During the inspection, approximately 770 gallons of hazardous waste was on site. Assuming a density of water, even though the paint density was likely higher, the three waste volumes would equate to 3331 kg, 2725 kg and 2915 kg. No generation dates were on the hazardous waste containers. Dynamic has not complied with the requirements for owners and operators of large quantity generators of hazardous waste.

40 CFR 262.34(d) as referenced in 9 VAC 20-60-262 of the VHWMR states that a small quantity generator is a generator who generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month and may accumulate hazardous waste on-site for 180 days or less without a permit or without having interim status.

40 CFR 262.34(a)(4) as referenced in 9 VAC 20-60-262 of the VHWMR states that a large quantity generator of hazardous waste must comply with the requirements for owners or operators in subparts C and D in 40 CFR part 265, with §265.16, and with all applicable requirements under 40 CFR part 268.

- i. Dynamic generated LQG amounts of hazardous waste and has not paid an LQG annual fee or notified DEQ of the change to LQG status.

9 VAC 20-60-1283(E) of the VHWMR requires that each episodic large quantity generator of hazardous waste shall be assessed an annual fee as shown in 9 VAC 20-60-1285 G to be paid in accordance with 9VAC 20-60-1280.

9 VAC 20-60-315(D) of the VHWMR requires that anyone who becomes a large quantity generator shall notify the department in writing immediately of this change in status and document the change in the operating record.

5. On October 15, 2015, DEQ issued Notice of Violation (NOV) No. 15-10-VRO-002 to Dynamic for the violations listed in paragraph 4, above.
6. On November 12, 2015, a meeting was held at DEQ VRO to discuss the NOV. The facility reported that they were now labeling and dating waste containers. They also had created a weekly inspection checklist and were using that to document weekly inspections. The facility reported that they intend to remain in the SQG category and will manage their wastes better to avoid reaching LQG status. The 770 gallons of hazardous waste observed on site during the October 1, 2015 inspection was shipped to a hazardous waste disposal facility of October 13, 2015.

7. Based on the results of the October 1, 2015 inspection, the Board concludes that Dynamic has violated 40 CFR 262.34(a)(2), 40 CFR 262.34(a)(3), 40 CFR 262.34(c) (1)(ii), 40 CFR 262.34(d)(4), 40 CFR 265.174, 9 VAC 20-60-262(B)(4), 40 CFR 262.34(d), 40 CFR 262.34(a)(4), 9 VAC 20-60-1283(E), 9 VAC 20-60-315(D), 40 CFR 273.13(d)(1), 40 CFR 273.14(e), 40 CFR 273.15(c) and 40 CFR 265.173(a) , as described in paragraph C(4), above.
8. Dynamic submitted documentation on November 3, 2015 and January 6, 2016 that verifies that the violations described in paragraph C(4.a through 4.i), above, have been corrected.
9. In Order to complete its return to compliance, DEQ staff and representatives of Dynamic have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code § 10.1-1455, the Board orders Dynamic, and Dynamic agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of **\$42,262.50** within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Dynamic shall include its Federal Employer Identification Number, 54-1836461, with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, Dynamic shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Dynamic for good cause shown by Dynamic, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.

2. This Order addresses and resolves only those violations specifically identified in Section C of this Order and in NOV No. 15-10-VRO-002 dated October 15, 2015. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Dynamic admits the jurisdictional allegations, but neither admits nor denies the findings of fact, and conclusions of law contained herein.
4. Dynamic consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Dynamic declares it has received fair and due process under the Administrative Process Act and the Virginia Waste Management Act and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Dynamic to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Dynamic shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Dynamic shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Dynamic shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and

- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

- 9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
- 10. This Order shall become effective upon execution by both the Director or his designee and Dynamic. Nevertheless, Dynamic agrees to be bound by any compliance date which precedes the effective date of this Order.
- 11. This Order shall continue in effect until:
 - a. The Director or his designee terminates the Order after Dynamic has completed all of the requirements of the Order;
 - b. Dynamic petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - c. The Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Dynamic.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Dynamic from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

- 12. Any plans, reports, schedules or specifications attached hereto or submitted by Dynamic and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
- 13. The undersigned representative of Dynamic certifies that he or she is a responsible official [or officer] authorized to enter into the terms and conditions of this Order and to execute and legally bind Dynamic to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Dynamic.
- 14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.



15. By its signature below, Dynamic voluntarily agrees to the issuance of this Order.

And it is so ORDERED this _____ day of _____, 2016.

Amy T. Owens, Regional Director
Department of Environmental Quality

Dynamic Aviation Group, Inc. voluntarily agrees to the issuance of this Order.

Date: February 18, 2016 By: [Signature], President/CEO
Michael A. Stoltzfus Title
Dynamic Aviation Group, Inc.

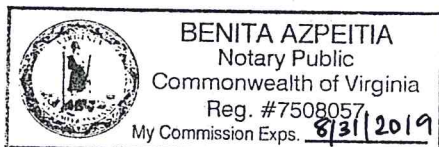
Commonwealth of Virginia
~~City~~ County of Rockingham

The foregoing document was signed and acknowledged before me this 18th day of February, 2016, by Michael A. Stoltzfus who is President & CEO of Dynamic Aviation Group, Inc., on behalf of the corporation.

[Signature]
Notary Public
7508057
Registration No.

My commission expires: August 31, 2019

Notary seal:



**APPENDIX A
SCHEDULE OF COMPLIANCE**

1. Hazardous Waste Management Plan

Within 180 days of the effective date of this Order, Dynamic shall submit a draft Hazardous Waste Management Plan to DEQ for review. This Plan shall include identification of key personnel and their responsibilities in the Facility's waste management program, minimization of waste, proper handling and storage of wastes, characterizing new wastes and employee training. Dynamic shall submit the final Plan within 30 days of receiving comments from DEQ on the draft Plan.

2. Training

- a) Within 30 days of completion of the final Hazardous Waste Management Plan, Dynamic shall provide training to employees involved in the handling and management of hazardous waste on compliance with the Facility's Plan and the hazardous waste regulations.
- b) Within 10 days after the completion of training, Dynamic shall certify, in writing, to the Department that the training was provided to Facility personnel.

3. LQG Fee Payment

Within 30 days of the effective date of this Order, Dynamic shall pay the LQG annual fee of \$1,000.00 as required by 9 VAC 20-60-1283 (E) for the years 2012, 2013 and 2015. The total payment of **\$3,000.00** shall be submitted to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

4. Contact

Unless otherwise specified in this Order, Dynamic shall submit all requirements of Appendix A of this Order to:

Karen Gail Hensley, P.E., Enforcement Team Leader
VA DEQ –Valley Regional Office
4411 Early Road
P.O. Box 3000
Harrisonburg, VA 22801
(540) 574-7821 - phone
(540) 574-7878 - fax
karen.hensley@deq.virginia.gov